



Signed and Filed: February 3, 2023

Lewis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

ORDER ALLOWING LATE CLAIM OF FERN ELIZABETH FISHER

On January 10, 2023, the court held a hearing on the *Motion to Allow/Deem Timely Late Filing of Proof of Claim* (Dkt. 13324) ("Motion") filed by Fern Elizabeth Fisher.

Ms. Fisher is a Wildfire Claimant, as defined below. For the reasons explained below, the court GRANTS the Motion and directs the Fire Victim Trust ("FVT") to treat the proof of claim filed by Ms. Fisher as timely filed.

1 **I. Discussion**

2 A bankruptcy court may, on motion of a claimant, deem a
3 late claim to be timely filed if the delay "was the result of
4 excusable neglect." Fed. R. Bankr. Pro. 9006(b) (1). The
5 decision regarding whether a late claim was the result of
6 excusable neglect "is at bottom an equitable one, taking account
7 of all relevant circumstances surrounding the party's omission."

8 *Pioneer Inv. Services Co. v. Brunswick Associates Ltd.*

9 *Partnership*, 507 U.S. 380, 395 (1993). Some circumstances
10 include "the danger of prejudice to the debtor, the length of
11 the delay and its potential impact on judicial proceedings, the
12 reason for the delay, including whether it was within the
13 reasonable control of the movant, and whether the movant acted
14 in good faith." *Id.* The court may weigh each these factors in
15 its discretion.

16 There are no arguments regarding Ms. Fisher's good faith or
17 damages. At question is only whether the late filing was within
18 Ms. Fisher's control. The only equitable factors the court
19 considers here are the prejudice to the FVT¹ and whether the
20 delay was in reasonable control of the Ms. Fisher.

21 First, the court finds that granting the Motion would
22 prejudice the FVT, but only minimally. The court has previously
23 discussed the prejudice the FVT would suffer by the aggregate

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¹ The FVT is the representative of each of the Debtors' estates
26 regarding administering, objecting to, and settling the claims
27 of victims of the wildfires that ravaged various parts of
28 Northern California in 2015, 2017, and 2018 ("Wildfire
Claimants") pursuant to the Paragraph 18(e)(iii) of the court's
Confirmation Order (Dkt. 8053).

1 allowance of late claims (See Dkt. 13377 and Order Denying
2 Motions to Allow Claims issued this date). That prejudice
3 exists in this instance as well, but on a minimal basis.

4 Next, Ms. Fisher has described circumstances that would
5 explain why the failure to file a claim until recently was the
6 result of excusable neglect. Through her counsel, Ms. Fisher
7 describes a unique situation which led to a lack of knowledge of
8 the claims bar date: total homelessness resulting from the
9 wildfires, culminating in years of living through a combination
10 of burned-out structures without electricity or running water
11 (and presumably without internet or newspaper access); camping,
12 and sleeping on the side of the road. It is unclear to the
13 court why Ms. Fisher did not utilize the type of emergency
14 shelters utilized by other wildfire victims, but that question
15 is also irrelevant to the court for the sake of this Motion.
16 Ms. Fisher's sustained living situation post-wildfires left her,
17 excusably, without any notice of the claims bar date.

18 **II. Conclusion**

19 For the reasons stated above the court hereby GRANTS the
20 Motion and deems the proof of claim of Ms. Fisher timely.

21 ****END OF ORDER****

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